

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the reasons that follow.

Claims 1-20 and 22-58 remain pending in this application.

Claims 1-20 and 22-58 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application No. 20020064149 to Elliott *et al.* (hereinafter “Elliott”) in view of U.S. Patent Application No. 20040088348 to Yeager *et al.* (hereinafter “Yeager”). Applicant respectfully traverses the rejection for at least the following reasons.

Embodiments of the present invention relate to the transfer of files between a sending device and receiving user equipment. Transfer of such files may require accommodation of certain limitations. For example, as noted in the specification, “[t]o be able to transfer the file from the sending device, such as a digital camera, to the receiving user equipment, such as a mobile station, the sending device needs to re-size the files to fit to the limitation.” Specification, page 6, lines 1-3. In accordance with embodiments of the present invention, information relating to the transfer method and/or the receiving user equipment is used to assess if the data file is to be modified. The assessment may be used to accordingly modify the data file. Accordingly, independent claim 1 recites “assessing, based on information relating to a transfer method and/or receiving user equipment, if the data file is to be modified.” Independent claims 22, 32, 34 and 39 each recite a similar feature. In another aspect, independent claim 33 recites user equipment with provides an indication relating to such information.

The cited references, either alone or in combination, fail to teach or suggest at least this feature of the present invention. Specifically, Elliot discloses a system for routing telephone calls, data and other information through a hybrid network. There is no teaching or suggestion in Elliot of any modification to the data being transferred. According to the disclosure of Elliot profile information is used for routing, billing, monitoring, reporting and other media control functions. Thus, Elliot fails to teach or suggest any assessment of whether any data file to be transferred is to be modified.

Yeager fails to cure this deficiency. Yeager is cited by the Examiner as disclosing “various transfer methods.” Office Action dated January 25, 2008, Page 3. The Office Action does not cite Yeager as disclosing the above-noted feature of the pending claims. After a review of the cited portions of Yeager, Applicant’s representative has found no disclosure in Yeager of any assessment of whether any data file to be transferred is to be modified. Thus, Yeager fails to teach or suggest at least the above-noted feature of the pending claims.

In order to establish a prima facie case of obviousness, “the prior art reference (or references when combined) must teach or suggest all the claim limitations.” M.P.E.P. § 2143. Since neither Elliot nor Yeager teaches or suggests at least the above-noted feature of the pending claims, the Office Action fails to establish a prima facie case of obviousness.

Accordingly, independent claims 1, 22, 32, 33, 34 and 39 are patentable. Claims 2-20 depend, either directly or indirectly, from allowable claim 1 and are, therefore, patentable for at least that reason, as well as for additional patentable features when those claims are considered as a whole. Similarly, claims 23-31 depend from allowable claim 22, claims 35-38 depend from allowable claim 34, and claims 40-58 depend from allowable claim 39. Therefore, claims 23-31, 35-38 and 40-58 are patentable for at least that reason, as well as for additional patentable features when those claims are considered as a whole.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are

needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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By /G. Peter Albert, Jr./

FOLEY & LARDNER LLP
Customer Number: 30542
Telephone: (858) 847-6735
Facsimile: (858) 792-6773

G. Peter Albert Jr.
Attorney for Applicant
Registration No. 37,268